IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Narayan Singh v. The Barmer Central Co-operative Bank Ltd. and another

S.B.CIVIL WRIT PETITION No.3781/1993
under Article 226 of the Constitution of India.

Date of Order : 14th February, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Nitin Trivedi, for the petitioner.
Mr. Rajesh Joshi, for the respondents.

BY THE COURT :

The petitioner by this writ petition is assailing validity of order dated 31.7.1992 passed by Managing Director of the respondent Bank whereby the petitioner was retired from services w.e.f. 31.7.1992, afternoon. The petitioner has also given challenge to the order dated 9.11.1982 passed by Joint Registrar (Banking) whereby the Managing Director of the respondent Bank was informed that no benefit can be extended to the petitioner on technical grounds. The communication dated 9.11.1992 from the Joint Registrar was passed response to a letter dated 11.9.1992 from the Managing Director of the Bank.

The facts, necessary for adjudication of the present writ petition, in brief, are that the

petitioner was in employment of the respondent Bank in the capacity of Class-IV employee. The age of retirement for Class-IV employees was of 60 years. The petitioner was to be retired from services on 31.12.1992 on achieving age of retirement. However, the Registrar, Co-operative Societies under a notification dated 24.7.1992 while exercising powers under Rule 41 of the Rajasthan Co-operative Societies Rules, 1966 (hereinafter referred to as "the Rules of 1966") fixed 58 years of age as the age of retirement. On 24.7.1992 the petitioner was of more than 59 years. The respondent Bank in light of notification dated 24.7.1992 retired the petitioner from services w.e.f. 31.7.1992.

After retirement of the petitioner an another order was passed by the Registrar, Co-operative Societies making an amendment in the order dated 24.7.1992 to the effect that the age of retirement of 58 years shall not be applicable for Class-IV employees.

The petitioner by this writ petition has given challenge to his retirement prior to the age of 60 years. His contention is that the age of retirement of the petitioner was 60 years and not of 58 years and, therefore, the respondent Bank wrongly retired him from services w.e.f. 31.7.1992. It is stated that by order Anx.3 dated 24.8.1992 an amendment was introduced in the order dated 24.7.1992, as such the age of retirement

i.e. of 58 years never came into force with regard to Class-IV employees.

I have heard counsel for the parties.

The Registrar Co-operative Societies by order dated 24.7.1992 fixed the age of 58 years as the age of retirement for officers/employees of various co-operative banks in the State of Rajasthan. Amendment in the order dated 24.7.1992 was introduced on 24.8.1992. The petitioner retired from services on the date the age fixed by the Registrar Co-operative Societies for superannuation was in existence. The amendment was introduced on 24.8.1992 and the amendment introduced was not with retrospective effect. In view of it on the date the petitioner was ordered to be retired from service the age of superannuation for Class-IV employees in the respondent Bank was of 58 years, therefore, the Bank rightly retired petitioner from services. The respondent Bank was having no authority to continue the petitioner in service after age of 58 years when the age of retirement was fixed as 58 years by the Registrar Co-operative Societies exercising powers under Rule 41 of the Rules of 1966.

In my considered opinion no illegality has been committed by the Bank authorities while retiring the petitioner from service w.e.f. 31.7.1992.

The writ petition, therefore, stands dismissed with no order as to costs.

(GOVIND MATHUR),J.

kkm/ps.